

CITY OF FAIRFIELD

RESOLUTION NO. 2018 - 159

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIRFIELD AUTHORIZING
THE CITY MANAGER TO EXECUTE A RAW WATER WHEELING AGREEMENT
BETWEEN THE CITY OF FAIRFIELD AND SOLANO IRRIGATION DISTRICT**

WHEREAS, the City of Fairfield has a need to provide raw water service to new development in Northeast Fairfield; and

WHEREAS, the Solano Irrigation District (SID) has existing raw water facilities with available capacity to serve the raw water delivery needs of the City of Fairfield; and

WHEREAS, both agencies have negotiated a mutually beneficial agreement for the use, and ultimately the transfer of ownership to the City, of such facilities; and

WHEREAS, the City Council finds that the Agreement, which contemplates the construction of a tie-in connection to, and use of, the SID raw water pipeline for City water, is exempt from the California Environmental Quality Act (CEQA, codified at Public Resources Code § 21000 et seq.; see also State CEQA Guidelines at 14 CCR § 15000 et seq.), pursuant to Public Resources Code Section 21080.21, which provides that CEQA does not apply to installation of new pipeline or maintenance or repair of existing pipeline less than a mile in length within a public street or right-of-way.

**NOW THEREFORE, THE COUNCIL OF THE CITY OF FAIRFIELD HEREBY
RESOLVES:**

Section 1. The City Council approves the Agreement for Raw Water Wheeling between the City of Fairfield and the Solano Irrigation District (Peabody Area), in the form attached hereto, with such minor changes as may be approved by the City Manager.

Section 2: The City Manager is hereby authorized to execute the Agreement and do all other acts and things necessary to implement this Resolution.

PASSED AND ADOPTED this 26th day of June, 2018, by the following vote:

AYES:	COUNCILMEMBERS:	<u>PRICE/TIMM/BERTANI/MOY/VACCARO</u>
NOES:	COUNCILMEMBERS:	<u>NONE</u>
ABSENT:	COUNCILMEMBERS:	<u>Moy</u>
ABSTAIN:	COUNCILMEMBERS:	<u>NONE</u>

Harry t. Price
MAYOR

ATTEST:

Karen L. Rees

CITY CLERK

pw

AGREEMENT FOR RAW WATER WHEELING BETWEEN THE CITY OF FAIRFIELD
AND THE SOLANO IRRIGATION DISTRICT (PEABODY AREA)

THIS AGREEMENT FOR RAW WATER WHEELING BETWEEN THE CITY OF FAIRFIELD AND THE SOLANO IRRIGATION DISTRICT (PEABODY AREA) (the "Agreement"), is made and entered into as of this first day of March, 2018 (the "Effective Date"), by and between the SOLANO IRRIGATION DISTRICT, an irrigation district organized and existing under and by virtue of the laws of the State of California, hereinafter called "SID," and the CITY OF FAIRFIELD, a municipal corporation, hereinafter called "Fairfield";

RECITALS

WHEREAS, SID serves raw water to an area shown in Exhibit A to this Agreement, known as the Peabody service area, using SID's raw water service transmission pipeline (the "Peabody Lateral"), which is located within the City limits of Fairfield as depicted in Exhibit B to this Agreement; and

WHEREAS, Fairfield desires to tie into the Peabody Lateral to provide raw water from Fairfield's Solano Project water supplies to portions of the Canon Station development project; and

WHEREAS, as parcels located in the Peabody service area are sold, redeveloped, or otherwise improved they will be required to obtain potable water service directly from the City of Fairfield; and

WHEREAS, SID plans to cease providing water service to the Peabody service area at such time that all parcels therein are receiving water service from Fairfield; and

WHEREAS, SID is willing to allow Fairfield to use the Peabody Lateral, until such time that SID transfers ownership of the Peabody Lateral to Fairfield, pursuant to the terms and conditions of this Agreement;

NOW, THEREFORE, the parties, for and in consideration of the mutual agreements and covenants contained in this Agreement, do agree as follows:

A. TERM

The term of this Agreement shall begin on the Effective Date and shall terminate as provided in Section C below.

B. DUTIES AND OBLIGATIONS

1. Tie-in Construction. Fairfield shall construct, or cause to be constructed, an 8-inch connection to the Peabody Lateral, install a new water meter and perform all other necessary actions to establish a functioning raw water service connection (the “Tie-in”) to the Peabody Lateral. Prior to construction of the Tie-in, Fairfield shall submit the Tie-in design to SID and obtain SID approval of the Tie-in design.
2. Ownership and Maintenance.
 - a. SID shall own and maintain the Peabody Lateral until the Transfer Date, which is established pursuant to Section C, below.
 - b. Fairfield shall own and maintain all facilities beyond the Peabody Lateral Tie-in point, as shown in Exhibit C (the “Fairfield Connection”).
3. Water Source. Fairfield shall provide the water to be transmitted through the Fairfield Connection from Fairfield’s Solano Project water supplies (“Fairfield Water”). Fairfield shall cooperate with the Solano County Water Agency and SID to keep a proper record of Fairfield Water usage.
4. Compensation. For use of the Peabody Lateral, Fairfield shall pay to SID a service charge of \$200 per month and a volumetric usage charge of \$0.50 per 100 cubic feet of Fairfield Water transmitted through the Peabody Lateral. Beginning on July 1, 2019, both the monthly service charge and the volumetric charge shall be adjusted on July 1 of every year by a percentage amount equal to the Unadjusted Percent Change for the CPI-U, Water and Sewerage Maintenance, as determined by the U.S. Department of Labor Statistics for the preceding year (June to June).
5. Invoicing. SID shall send Fairfield an invoice monthly, or as otherwise agreed to by the parties, for use of the Peabody Lateral.
6. Payment. Fairfield shall make payment to SID within forty-five (45) days of receipt of the invoice. Charges or other penalties for late payments shall be the same as would apply for SID customers in the Peabody service area.
7. Meter Readings. SID shall read the meter and report to Fairfield the monthly water use through the Fairfield Connection. Such readings shall be conclusive as to quantities of water furnished except as provided in the following sentence. The meter shall be checked for accuracy by representatives of Fairfield and SID within five (5) days after the date of written requests of either party; provided, however, that no two (2) such consecutive checks of the same meter shall be separated by an interval of less than thirty (30) days. If a meter is found to be registering inaccurately

by two percent (2%) or more, charges for water shall be adjusted accordingly for the period, not exceeding thirty (30) days that the meter was in error.

C. TRANSFER OF PEABODY LATERAL

The Fairfield Public Works Director shall provide written notice to SID at such time that Fairfield is providing water service to all parcels in the Peabody service area. Upon receipt of such notice, SID transfer ownership of the Peabody Later to Fairfield at no charge. The form of documentation required for the transfer of ownership of the Peabody Later and any associated property or easement rights shall be mutually agreed upon at the time of transfer. The date on which the Transfer Documents have been recorded is the "Transfer Date." This Agreement shall terminate on the Transfer Date.

D. WATER ENTITLEMENTS

This Agreement shall not affect, alter, or modify the water entitlements of either party under any other agreement or arrangement now existing.

E. NOTICES

All notices or instruments required to be given or delivered by law or this Agreement shall be in writing and shall be effective upon receipt thereof and shall be by personal service or delivered by depositing the same in any United States Post Office, registered or certified mail, postage prepaid, addressed to:

If to SID: General Manager
Solano Irrigation District
810 Vaca Valley Parkway
Vacaville, CA 95688

If to Fairfield: Public Works Director
 City of Fairfield Public Works Department
 1000 Webster Street (Third Floor)
 Fairfield, CA, 94533

Any party may change its address for receiving notices by giving written notice of such change to the other party in accordance with this section.

F. INTEGRATION CLAUSE

This Agreement, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement.

G. LAW GOVERNING

This Agreement shall in all respects be governed by the law of the State of California without regard to its conflicts of law rules. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Solano County in the State of California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

H. WAIVER

Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

I. AMBIGUITY

The parties acknowledge that this is a negotiated agreement and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

J. SEVERABILITY

Should any part, term or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or otherwise rendered unenforceable or ineffectual, the invalid provision shall be replaced, by the mutual agreement of both parties, with a provision that approximates as near as possible the commercial intent of the invalid or unenforceable provision. If the parties are unable to agree on the replacement provision, this Agreement shall be null and void.

K. AMENDMENT OF AGREEMENT

This Agreement may be amended by a written supplemental agreement executed by the parties.

L. SUCCESSORS AND ASSIGNMENTS

This Agreement shall be binding upon and shall inure to the benefit of the successors of each party. Either may assign any right or obligation under this Agreement with the written approval of the other party.

M. HEADINGS

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

N. COUNTERPARTS

The parties may execute this Agreement in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument.

O. EXHIBITS

All exhibits referenced in and attached to this Agreement are hereby incorporated herein and made a part of this Agreement by this reference

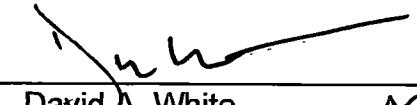
P. AUTHORITY

Each person signing this Agreement represents that the person has the legal capacity and authority to bind the respective party to this Agreement.

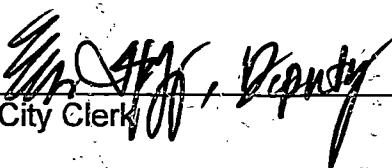
(SIGNATURES ARE ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

CITY OF FAIRFIELD
a municipal corporation

By: 

David A. White
City Manager 

Attest: 

City Clerk

SOLANO IRRIGATION DISTRICT, an
irrigation district organized and existing
under and by virtue of the laws of the
State of California

By: 

Cary Keaten
General Manager

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

CITY OF FAIRFIELD
a municipal corporation

By: _____
David A. White
City Manager

Attest: _____
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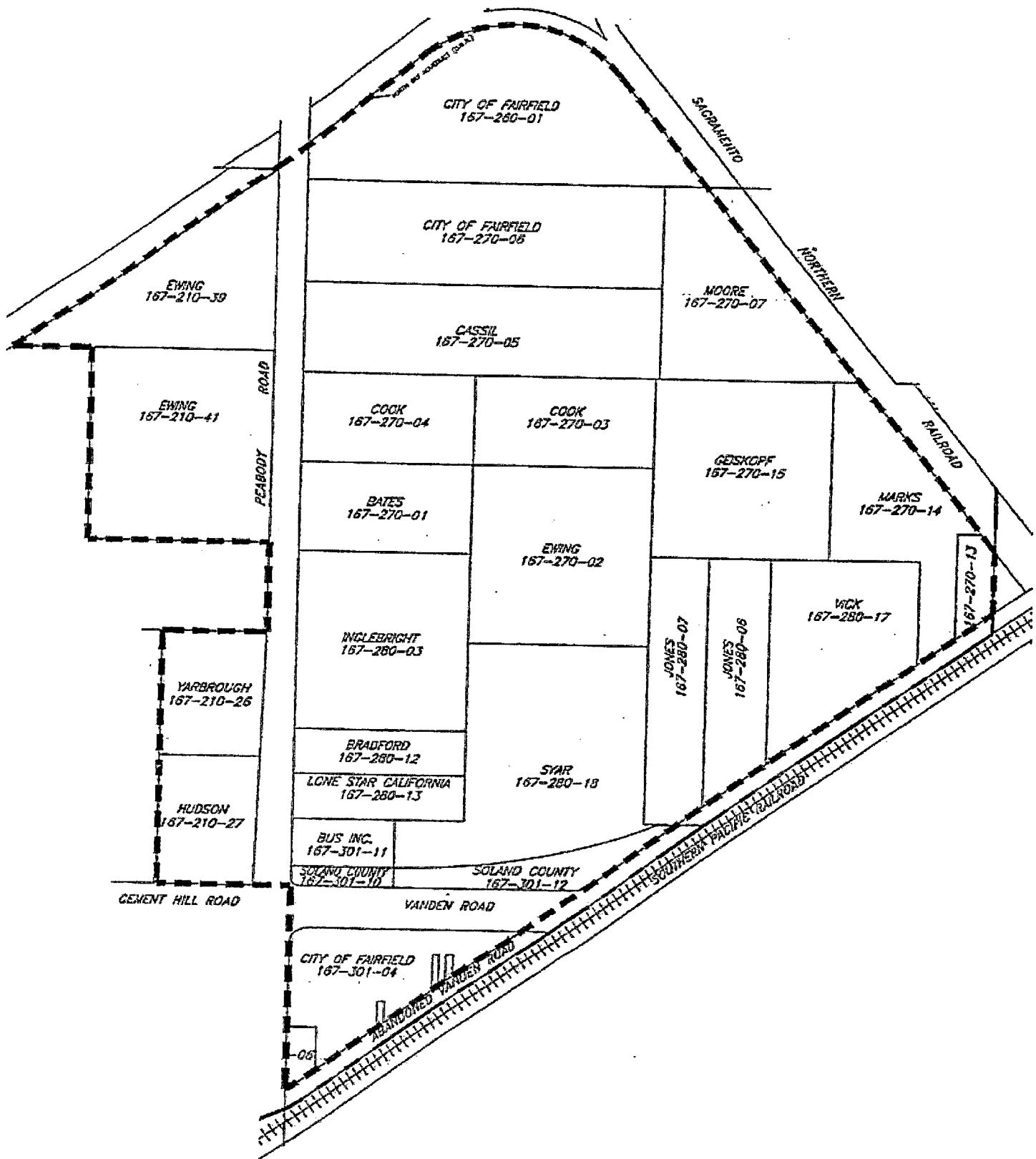


Exhibit A
Peabody Improvement District

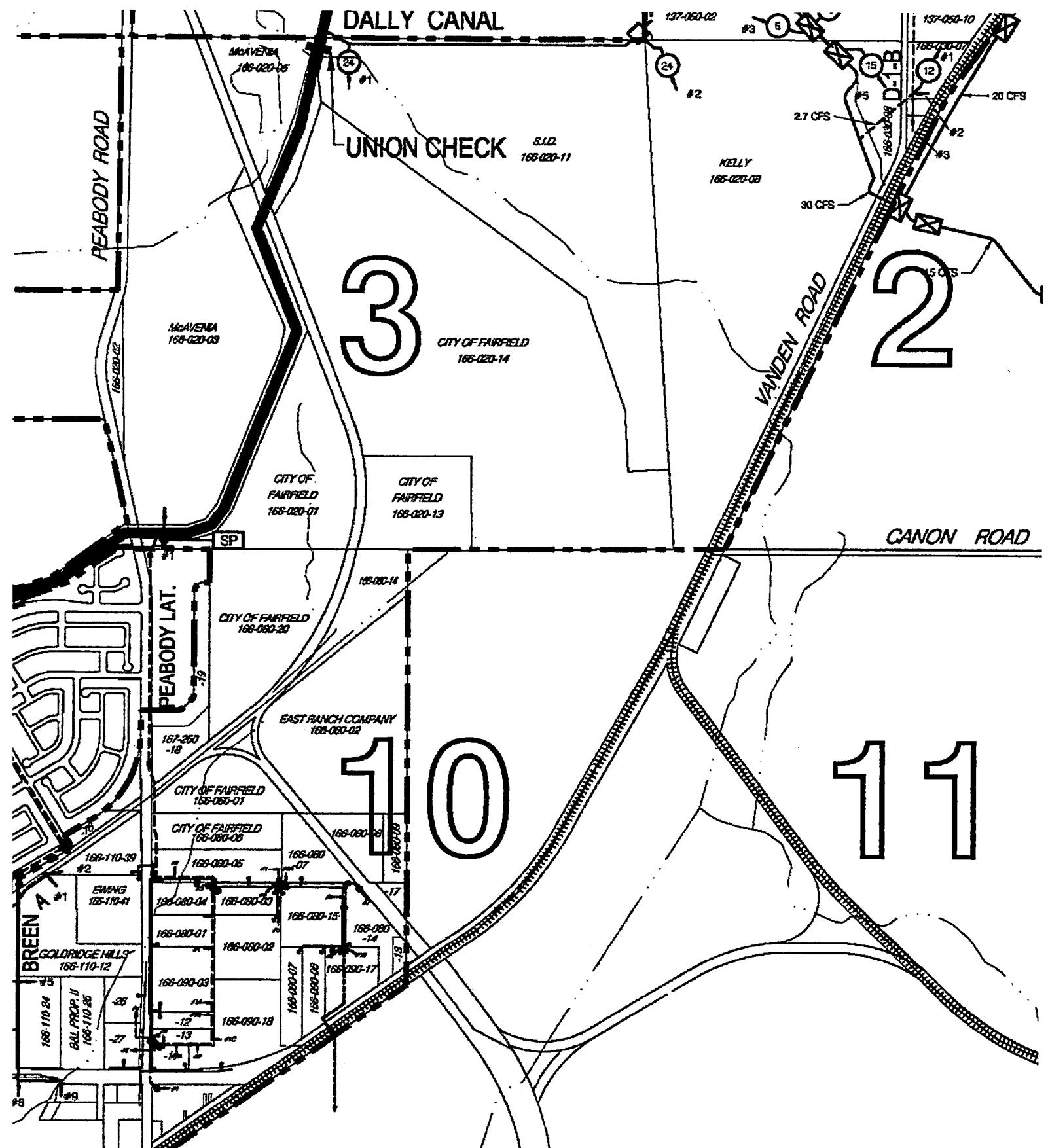


Exhibit B

Peabody Lateral Location Map

Exhibit C

Peabody Lateral and Fairfield Connection

